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January 11, 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Mr. William F. Caton  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, NW  
Washington, DC 20554

**EX PARTE  
PRESENTATION**

Re: In the Matter of the Petition of the  
Inmate Calling Services Providers Task  
Force for Declaratory Ruling, RM 8181

Dear Mr. Caton:

Pursuant to the Commission's rules on ex parte presentations, 47 CFR § 1.1206(a), we hereby submit information in the above-referenced docket on behalf of the Inmate Calling Service Providers Task Force of the American Public Communications Council ("APCC").

The purpose of this letter is to present material in response to a point raised by Commission staff in a meeting on December 11, 1995. It was suggested that granting the Task Force's petition before ruling on the regulatory status of carrier-provided public payphones might impose a competitive disadvantage on the Bell companies because there would be a period of time during which Bell companies' public payphones would be still treated as part of regulated local exchange service, while their inmate telephone system offerings would be treated as unregulated customer premises equipment ("CPE"). The concern is that under these circumstances the Bell companies would no longer be able to comply with state or local government procurement requirements that require one entity to provide both (1) inmate telephone systems for jails or prisons and (2) public payphones serving state or local government buildings and property.

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First, the record does not indicate that the provision of both inmate telephone systems and public payphones by a single entity is legally required in any jurisdiction. To the contrary, as indicated by the attached letter from Southern Bell to a jail administrator, Bell companies have claimed that their ability to serve both types of locations is a competitive advantage distinguishing the Bell companies from other competitors. See Attachment 1 at 3 ("keep in mind that 85 to 90% of the calls made from the jails are expected to be either local calls or intralata calls"). Therefore, even assuming that a change in the regulatory status of inmate telephones affected the Bell companies' ability to provide both inmate telephone systems and public payphones as part of a single proposal, the Commission has no reason to conclude that this change would disqualify the Bell companies from any competitive bidding situation.

But in any event, granting the Task Force's petition -- even in advance of any ruling that alters the regulatory treatment of public payphones -- would not prevent the Bell companies from continuing to offer to provide both inmate telephones and public payphones to state and local government entities. As long as the Bell companies do not discriminate in the regulated services and functions provided to their unregulated inmate telephone operations, they can continue to provide both inmate telephone service and public payphone service to the same government entity.<sup>1</sup>

Further, the Bell companies would not be precluded from continuing to use revenue from unregulated inmate telephone systems to subsidize regulated public payphone services, as BellSouth represents in the attached letter. Attachment 1 at 4. The Commission's rules and policies prohibit the use of regulated revenue to subsidize unregulated offerings, but do not restrict

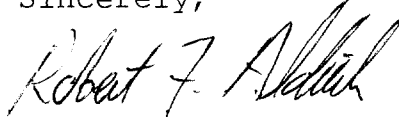
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<sup>1</sup> Currently, the Bell Companies are free to market unregulated CPE jointly with regulated network services, provided that they provide independent CPE vendors a meaningful opportunity to also market CPE jointly with the Bell Companies' regulated network services. Furnishing of Customer Premises Equipment by the Bell Operating Telephone Companies and the independent Telephone Companies, 2 FCC Rcd 143, 156 (1987) (subsequent history omitted). The record does not indicate that this requirement has imposed any undue burden on the Bell Companies' marketing activities.

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the use of unregulated revenue to subsidize regulated offerings.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert F. Aldrich". The signature is fluid and cursive, with the first name "Robert" and last name "Aldrich" clearly distinguishable.

Albert H. Kramer  
Robert F. Aldrich

RFA/jh

Enclosure

cc: Kathleen Levitz  
Richard Metzger  
Mary Beth Richards  
John Morabito  
Alan Thomas

## ATTACHMENT 1



Southern Bell

Southern Bell Public Communications  
400 Enterprise Drive  
P.O. Box 30188  
Charlotte, North Carolina 28230

January 11, 1995

Ms. Lori Lauer  
Mecklenburg County Sheriff's Department  
700 E. 4th Street  
Charlotte, North Carolina 28202

Dear Lori:

In response to your request for additional information pertaining to Southern Bell's Inmate Telephone System, the following information is provided:

QUESTION # 1- Are there any types of calls you cannot pay commission on? If so, what types? How does this effect the overall commission rate?

RESPONSE: Southern Bell does not pay commission on calls to 800#s, 900#s, 976#s, 950#s, 411 (local information), 555-1212 (long distance information), 611 (Southern Bell repair), 780#s (Southern Bell toll free #s) and 911 calls.

QUESTION # 2- Can Southern Bell provide free calls at the intake center or jail from defendants to attorneys, public defenders or bondsman?

RESPONSE: Yes, Southern Bell can provide so-called "free calling" for the inmate, however since Southern Bell is prohibited by tariff from giving free service to anyone or any organization. Our procedure in these cases is to subtract the actual cost of these calls from the commission check each month. Even if another vendor says that they can provide free calls, they also take the cost of providing this "free" service into account as part of their overall expenses, and you as the telephone location provider will end up actually paying for the "free"

calling for the inmates. This option has always been available to inmate facilities served by Southern Bell in North Carolina, however none have elected to implement this option.

QUESTION #3- Is it necessary to connect to a live operator if the end user has a rotary dial phone?

RESPONSE: No; when the called party has a rotary dial phone, our automated system will give a voice prompt stating that if they have a

rotary dial phone they can respond with a verbal "YES" to accept the collect call or just hang up to reject the call.

QUESTION #4- Can Southern Bell flag or block employee or Sheriff Department numbers and notify Sheriff's Dept. if calls are attempted to these numbers? Are you able to provide an alert feature to immediately advise Sheriff's Dept.?

RESPONSE: Southern Bell can block calls from being made to Sheriff's Dept. employees telephone numbers. You can, on a daily basis or on an as needed basis, search the system data base to determine if attempts were made to call those numbers. Currently there is not an alert feature for immediate notification, however if this is a feature you want, we will present it to Science Dynamics for incorporation into the next system software release. Science Dynamics is very responsive to our requests for development of new system features.

QUESTION #5- Do you have a policy to contact end users whose acceptance of collect calls exceeds a set amount to allow them the option of blocking future calls?

RESPONSE: Southern Bell does not have a policy to contact the end users whose acceptance of collect calls exceed a set amount to allow them the option of blocking future calls. Each month the called party will receive a bill for the collect calls. From this notification of the cost they would have to determine the number of calls which they can accept each month. If in the future Mecklenburg County Jail elects to incorporate a debit or commissary system, we can control the dollar volume of total calling made by an inmate.

QUESTION #6- Do you provide 24 hour service-being flexible to solve any unique situation we may need assistance with?

RESPONSE: Yes. The normal repair procedure is for the customer to dial Southern Bell's repair number 611. The Repair Center has a complete list of numbers for 24 Hour call outs. Additionally, your staff will have the home numbers of your account team members for any after hours needs.

QUESTION #7- Can all satellite jails be networked into one computer to limit access to only trained, approved personell at that location?

RESPONSE: Yes we can. Each person who has a need to access the system will have a unique password for access. This also provides a record of who did what in the system.

QUESTION #8- Does Southern Bell carry only intralata calls? Do we have to choose another carrier for interlata calls?

RESPONSE: Currently Southern Bell only carries intralata calls and local calls. Effective July 1, 1994 interexchange carriers are allowed to carry both intra and interlata traffic. We would expect that we also will be allowed to carry both sometime in the near future. Keep in mind that 85 to 90% of the calls made from the jails are expected to be either local calls or intralata calls. Also, you may elect to piggyback on the N.C. State contract which is now paying 24% commission on interlata calls.

QUESTION #9- Can you provide a monthly report detailing the most active numbers being called? Can you provide a monthly report listing calls placed to or from each law enforcement agency- if same number is called from more than one jurisdiction? Can you provide a report of all calls for any time period needed for emergency situations?

RESPONSE: Yes, we can provide a report detailing the most active numbers being called. We cannot provide a monthly report listing calls placed to or from each law enforcement agency- if the call is placed from more than one jurisdiction. This can only be accomplished if you share data base information with the other agencies or jurisdictions involved. Yes, we can provide a report of all calls for any time period as needed for emergency situations.

QUESTION #10- How often, and what is the procedure you would advise us of new features/techniques for upgrading our system? Will you upgrade on request?

RESPONSE: As your Account manager it is my responsibility to advise you all new products and services available. If a new feature or software package is available and wanted by you it will be provided to you at no cost.

QUESTION #11- Will we have a specific company contact person?

RESPONSE: Yes. As your Account Manager I am your primary contact person.

QUESTION #12- What jails besides Charleston have PC based phone systems. How long have they been in effect? Is your PC based system one that the Sheriff Dept. can control and generate own reports including the type mentioned in previous questions?

RESPONSE: Tab #8 of the proposal lists all of the North Carolina and South Carolina systems, and there are more than 260 other inmate

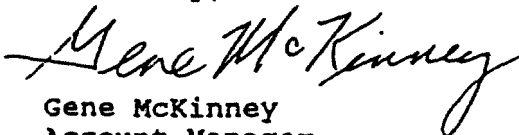
systems installed in the other BellSouth states. 58 of those 260 systems are the Science Dynamics CCTD Inmate Telephoine Systems similar to the system we are proposing for Mecklenburg County. The State of South Carolina has signed a contract with Southern Bell to install the CCTD system in all of their prison locations. We are filing a request with the North Carolina Public Utilities Commission on January 18 asking to be allowed to offer the SMDR feature effective on February 22, and we are confident that we will be given approval. With approval you will have the capability to generate your own reports.

QUESTION #13- What do you feel are the greatest advantages of using Southern Bell vs. a competitive private company?

RESPONSE: Southern Bell is a local company which has been in business longer than any of our competitors. Your account will be managed and maintained by very experienced personell who will provide you with a very high level of service. We have the absolute latest in technology and we will upgrade your system as needed at no cost to you. Southern Bell wants to serve all of the public and inmate telephones in the county; by allowing Southern Bell to provide the lucrative inmate telephones in the jails, we are able to offer a higher commission rate to all of the City and County public phones, and we are able to install phones in traditionally low usage areas by averaging in the high usage phones in the jails with those low usage phones. One contract covering all inmate and public phones will allow the best overall service for the entire community.

Please call me if you have any questions, or if I can be of further assistance.

Sincerely;

  
Gene McKinney  
Account Manager